

## SENATE BILL NO. 276

INTRODUCED BY BALES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF BENTONITE; EXEMPTING BENTONITE FROM NET PROCEEDS PROPERTY TAXATION BEGINNING WITH TAX YEAR 2004; IMPOSING A ~~LOCAL GOVERNMENT~~ BENTONITE PRODUCTION TAX ON THE TONS OF BENTONITE PRODUCED BEGINNING WITH TAX YEAR 2005; EXEMPTING FROM TAXATION THE FIRST 20,000 TONS OF BENTONITE PRODUCED IN A YEAR; PROVIDING FOR A DECLINING SCHEDULE OF TAXATION OF BENTONITE DEPENDING ON THE NUMBER OF TONS PRODUCED; REQUIRING THE SEMIANNUAL PAYMENT OF THE TAX; PROVIDING FOR AN INFLATION ADJUSTMENT TO THE TAX SCHEDULE BEGINNING WITH TAX YEAR 2010; IMPOSING A 15% TAX RATE ON THE GROSS VALUE OF ROYALTIES; PROVIDING FOR THE DISTRIBUTION OF BENTONITE PRODUCTION TAXES ~~TO COUNTIES AND SCHOOL DISTRICTS~~; PROVIDING FOR A VALUE TO BE USED FOR COUNTY CLASSIFICATION PURPOSES AND FOR LOCAL GOVERNMENT DEBT LIMITS AND OTHER BONDING PROVISIONS; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE TAX; AMENDING SECTIONS 15-6-131, 15-6-208, 15-23-101, ~~15-23-103~~, ~~15-23-104~~, ~~15-23-115~~, 15-23-501, AND 15-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. Local government production tax on bentonite -- statements -- distribution.~~ (1) Each person engaged in mining bentonite shall file with the department on or before March 31 of each year a statement of the gross yield from each bentonite mine owned or operated by the person in the previous calendar year. The statement must contain the following:

~~(a) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;~~

~~(b) the description and location of the mine or mines;~~

~~(c) the number of tons of bentonite extracted, produced, and treated or sold from the mine during the~~

1 ~~period covered by the statement;~~

2 ~~—— (d) the amount and character of the bentonite and the yield of the bentonite from the mine before~~  
3 ~~crushing and drying, measured in tons, yielded to the person engaged in mining and to each royalty holder, if~~  
4 ~~any, during the period covered by the statement; and~~

5 ~~—— (e) the gross yield of value in dollars and cents.~~

6 ~~—— (2) On or before July 1, the department shall prepare for each county a statement listing gross yield,~~  
7 ~~measured in tons before crushing and drying, of bentonite mines in the county. The gross yield is subject to a~~  
8 ~~local government production tax as provided in this section.~~

9 ~~—— (3) (a) The county treasurer shall give notice in the same manner that notification is provided in~~  
10 ~~15-16-101(2) to each bentonite producer of the taxes due and shall collect the taxes on the amount of bentonite~~  
11 ~~produced from all mines owned or operated by the owner or operator within the exterior boundaries of an~~  
12 ~~elementary school district. The tax is computed according to the following schedule:~~

13 ~~—— (i) on the first 100,000 tons produced, \$1.75 a ton;~~

14 ~~—— (ii) on the next 150,000 tons produced, \$1.50 a ton;~~

15 ~~—— (iii) on the next 250,000 tons produced, \$1.25 a ton;~~

16 ~~—— (iv) on production in excess of 500,000 tons, \$1.00 a ton.~~

17 ~~—— (b) For tax years beginning after December 21, 2009, the dollar amounts referred to in the schedule in~~  
18 ~~subsections (3)(a)(i) through (3)(a)(iv) must be adjusted by the department by multiplying each dollar amount~~  
19 ~~by the quotient of the PCE for the first quarter of the year previous to the tax year for which the tax is being~~  
20 ~~calculated, divided by the PCE for the first quarter of the 2009 tax year. The department shall provide the~~  
21 ~~adjusted schedule to the county in the statement required by subsection (2).~~

22 ~~—— (c) For the purposes of this section, "PCE" has the meaning provided in 15-23-515.~~

23 ~~—— (4) The county treasurer shall collect the taxes due at the times provided for in 15-16-102, and any~~  
24 ~~delinquencies in the payment of the taxes are subject to the interest and penalty provisions in 15-16-102.~~

25 ~~—— (5) (a) In the statement required by subsection (2), the department shall also provide to each county~~  
26 ~~the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three~~  
27 ~~and one-third percent of the gross yield of value must be treated as taxable value for county classification~~  
28 ~~purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.~~

29 ~~—— (b) The percentage amount of the gross yield of value determined under subsection (5)(a) must be~~  
30 ~~treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding~~

provisions as provided by law.

~~———— (6) The county treasurer shall distribute all taxes collected under [section 2] and this section in the relative proportions required by the levies for county and school district purposes. A distribution may not be made to county and state school equalization levies under 20-9-331, 20-9-333, and 20-9-360 and to the Montana university system levies under 15-10-107, 20-25-423, and 20-25-439.~~

**NEW SECTION. SECTION 1. PRODUCTION TAX RATES IMPOSED ON BENTONITE PRODUCTION.** (1) THE PRODUCTION OF BENTONITE IS TAXED AS PROVIDED IN THIS SECTION. THE TAX IS DISTRIBUTED AS PROVIDED IN [SECTION 10].

(2) (A) EXCEPT AS PROVIDED IN SUBSECTION (3), THE TAX ON BENTONITE IS ON THE GROSS YIELD OF BENTONITE PRODUCED, MEASURED IN TONS BEFORE CRUSHING AND DRYING, BY THE OWNER OR OPERATOR WITHIN THE EXTERIOR BOUNDARIES OF AN ELEMENTARY SCHOOL DISTRICT. THE TAX IS COMPUTED ACCORDING TO THE FOLLOWING ANNUAL PRODUCTION SCHEDULE:

(I) ON THE FIRST 80,000 TONS PRODUCED IN EXCESS OF THE AMOUNT EXEMPTED IN SUBSECTION (3), \$1.56 A TON;

(II) ON THE NEXT 150,000 TONS PRODUCED, \$1.50 A TON;

(III) ON THE NEXT 250,000 TONS PRODUCED, \$1.40 A TON;

(IV) ON THE NEXT 500,000 TONS PRODUCED, \$1.25 A TON;

(V) ON PRODUCTION IN EXCESS OF 1 MILLION TONS, \$1 A TON.

(B) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2009, THE DOLLAR AMOUNTS REFERRED TO IN THE SCHEDULE IN SUBSECTIONS (2)(A)(I) THROUGH (2)(A)(V) MUST BE ADJUSTED BY THE DEPARTMENT BY MULTIPLYING EACH DOLLAR AMOUNT BY THE QUOTIENT OF THE PCE FOR THE FIRST QUARTER OF THE YEAR PREVIOUS TO THE TAX YEAR FOR WHICH THE TAX IS BEING CALCULATED, DIVIDED BY THE PCE FOR THE FIRST QUARTER OF THE 2009 TAX YEAR.

(C) FOR THE PURPOSES OF THIS SECTION:

(I) "PCE" HAS THE MEANING PROVIDED IN 15-23-515; AND

(II) "TON" MEANS 2,000 POUNDS.

(3) THE FIRST 20,000 TONS PRODUCED IN A CALENDAR YEAR ARE EXEMPT FROM TAXATION.

**NEW SECTION. SECTION 2. SEMIANNUAL PAYMENT OF TAX -- STATEMENT -- AUTHORITY OF DEPARTMENT.** (1) (A) THE BENTONITE PRODUCTION TAX IMPOSED UNDER [SECTION 1] AND THE TAX ON ROYALTIES UNDER [SECTION 3]

MUST BE PAID IN SEMIANNUAL INSTALLMENTS FOR THE SEMIANNUAL PERIODS ENDING, RESPECTIVELY, JUNE 30 AND DECEMBER 31 OF EACH YEAR, AND THE AMOUNT OF THE TAX FOR EACH SEMIANNUAL PERIOD MUST BE PAID TO THE DEPARTMENT WITHIN 45 DAYS AFTER THE END OF EACH SEMIANNUAL PERIOD. THE OWNER OR OPERATOR OF THE BENTONITE MINE SHALL PAY THE PRODUCTION TAX AND THE TAX ON ROYALTY INTERESTS.

(B) UNLESS OTHERWISE PROVIDED IN A CONTRACT OR LEASE, THE PRO RATA SHARE OF ANY ROYALTY OWNER MUST BE DEDUCTED FROM ANY SETTLEMENTS UNDER THE LEASE OR LEASES OR DIVISION OF PROCEEDS ORDERS OR CONTRACTS.

(2) THE OWNER OR OPERATOR SHALL COMPLETE ON FORMS PRESCRIBED BY THE DEPARTMENT A STATEMENT SHOWING:

(A) THE NAME AND ADDRESS OF THE OWNER OR LESSEE OR OPERATOR OF THE MINE, TOGETHER WITH THE NAMES AND ADDRESSES OF ANY PERSONS OWNING OR CLAIMING ANY ROYALTY INTEREST IN THE MINERAL PRODUCT OF THE MINE OR THE PROCEEDS DERIVED FROM THE SALE OF PRODUCTS, AND THE AMOUNT OR AMOUNTS PAID OR YIELDED AS ROYALTY TO EACH OF THE PERSONS DURING THE PERIOD COVERED BY THE STATEMENT;

(B) THE DESCRIPTION AND LOCATION OF THE MINE OR MINES;

(C) THE NUMBER OF TONS OF BENTONITE EXTRACTED, PRODUCED, AND TREATED OR SOLD FROM THE MINE DURING THE PERIOD COVERED BY THE STATEMENT;

(D) THE AMOUNT AND CHARACTER OF THE BENTONITE AND THE YIELD OF THE BENTONITE FROM THE MINE BEFORE CRUSHING AND DRYING, MEASURED IN TONS, YIELDED TO THE PERSON ENGAGED IN MINING AND TO EACH ROYALTY HOLDER, IF ANY, DURING THE PERIOD COVERED BY THE STATEMENT; AND

(E) THE GROSS YIELD OF VALUE IN DOLLARS AND CENTS.

(3) THE STATEMENT MUST BE SIGNED BY THE INDIVIDUAL OR THE PRESIDENT, VICE PRESIDENT, TREASURER, ASSISTANT TREASURER, OR AUTHORIZED AGENT OF THE ASSOCIATION, CORPORATION, JOINT-STOCK COMPANY, OR SYNDICATE MAKING THE STATEMENT.

(4) THE STATEMENT MUST BE ACCOMPANIED BY THE TAX DUE.

(5) THE TAX COLLECTED UNDER THIS SECTION MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE FUND FOR DISTRIBUTION AS PROVIDED IN [SECTION 10].

(6) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE PROVISIONS OF [SECTIONS 1 THROUGH 11], THE DEPARTMENT IS AUTHORIZED TO EXAMINE OR CAUSE TO BE EXAMINED ANY BOOKS, PAPERS, RECORDS, OR MEMORANDA RELEVANT TO MAKING A DETERMINATION OF THE AMOUNT OF TAX DUE, WHETHER THE BOOKS, PAPERS, RECORDS, OR MEMORANDA ARE THE PROPERTY OF OR IN THE POSSESSION OF THE PERSON FILING THE RETURN OR ANOTHER PERSON.

1 IN DETERMINING COMPLIANCE, THE DEPARTMENT MAY USE STATISTICAL SAMPLING AND OTHER SAMPLING TECHNIQUES  
2 CONSISTENT WITH GENERALLY ACCEPTED AUDITING STANDARDS. THE DEPARTMENT MAY ALSO:

3 (A) REQUIRE THE ATTENDANCE OF A PERSON HAVING KNOWLEDGE OR INFORMATION RELEVANT TO A STATEMENT;

4 (B) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS, OR MEMORANDA BY THE PERSON REQUIRED TO  
5 ATTEND;

6 (C) IMPLEMENT THE PROVISIONS OF 15-1-703 IF THE DEPARTMENT DETERMINES THAT THE COLLECTION OF THE  
7 TAX IS OR MAY BE JEOPARDIZED BECAUSE OF DELAY;

8 (D) TAKE TESTIMONY ON MATTERS MATERIAL TO THE DETERMINATION; AND

9 (E) ADMINISTER OATHS OR AFFIRMATIONS.

10  
11 NEW SECTION. Section 3. Taxation of royalties. All royalty amounts paid or apportioned in kind to  
12 royalty owners ~~during the year~~ for which the statement is made under [section 4(1) 2] are taxed at 15% of the  
13 amount paid or apportioned in kind to the royalty owner AND ARE PAID AS PROVIDED IN [SECTION 2]. ~~For the~~  
14 ~~purposes of preparing a royalty assessment tax roll and for the payment of royalty taxes under this section, the~~  
15 ~~provisions of 15-23-507 apply.~~

16  
17 ~~NEW SECTION. Section 3. Net proceeds of mines sections incorporated by reference.~~ For the  
18 ~~purposes of the administration and enforcement of the provisions of [sections 1 through 3], 15-23-504, 15-23-506~~  
19 ~~through 15-23-508, and 15-23-521 through 15-23-523 are incorporated into [sections 1 through 3] by reference~~  
20 ~~and made a part of [sections 1 through 3].~~

21  
22 NEW SECTION. SECTION 4. EXAMINATION OF STATEMENT -- ADJUSTMENTS -- DELIVERY OF NOTICES AND  
23 DEMANDS. (1) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF TAX DUE IS DIFFERENT FROM THE AMOUNT  
24 REPORTED, THE AMOUNT OF TAX COMPUTED ON THE BASIS OF THE EXAMINATION CONDUCTED PURSUANT TO [SECTION  
25 2] CONSTITUTES THE TAX TO BE PAID.

26 (2) IF THE TAX DUE EXCEEDS THE AMOUNT OF TAX REPORTED AS DUE ON THE TAXPAYER'S STATEMENT, THE  
27 EXCESS MUST BE PAID TO THE DEPARTMENT WITHIN 30 DAYS AFTER NOTICE OF THE AMOUNT AND DEMAND FOR PAYMENT  
28 ARE MAILED OR DELIVERED TO THE PERSON MAKING THE STATEMENT UNLESS THE TAXPAYER FILES A TIMELY OBJECTION  
29 AS PROVIDED IN 15-1-211. IF THE AMOUNT OF THE TAX FOUND DUE BY THE DEPARTMENT IS LESS THAN THAT REPORTED  
30 AS DUE ON THE STATEMENT AND HAS BEEN PAID, THE EXCESS MUST BE CREDITED OR, IF NO TAX LIABILITY EXISTS OR IS

1 LIKELY TO EXIST, REFUNDED TO THE PERSON MAKING THE STATEMENT.

2 (3) THE NOTICE AND DEMAND PROVIDED FOR IN THIS SECTION MUST CONTAIN A STATEMENT OF THE  
3 COMPUTATION OF THE TAX AND INTEREST AND MUST BE:

4 (A) SENT BY MAIL TO THE TAXPAYER AT THE ADDRESS GIVEN IN THE TAXPAYER'S STATEMENT, IF ANY, OR TO THE  
5 TAXPAYER'S LAST-KNOWN ADDRESS; OR

6 (B) SERVED PERSONALLY UPON THE TAXPAYER.

7 (4) A TAXPAYER FILING AN OBJECTION TO THE DEMAND FOR PAYMENT IS SUBJECT TO AND GOVERNED BY THE  
8 UNIFORM TAX REVIEW PROCEDURE PROVIDED IN 15-1-211.

9  
10 **NEW SECTION. SECTION 5. PENALTIES AND INTEREST FOR VIOLATION. (1) (A) A PERSON WHO FAILS TO FILE**  
11 **A STATEMENT AS REQUIRED BY [SECTION 2] MUST BE ASSESSED A PENALTY AS PROVIDED IN 15-1-216. THE DEPARTMENT**  
12 **MAY WAIVE THE PENALTY AS PROVIDED IN 15-1-206.**

13 **(B) A PERSON WHO FAILS TO FILE THE STATEMENT REQUIRED BY [SECTION 2] AND TO PAY THE TAX BEFORE THE**  
14 **DUE DATE MUST BE ASSESSED A PENALTY AND INTEREST AS PROVIDED IN 15-1-216. THE DEPARTMENT MAY WAIVE ANY**  
15 **PENALTY PURSUANT TO 15-1-206.**

16 **(2) A PERSON WHO PURPOSELY FAILS TO PAY THE TAX WHEN DUE MUST BE ASSESSED AN ADDITIONAL PENALTY**  
17 **AS PROVIDED IN 15-1-216(1)(D).**

18  
19 **NEW SECTION. SECTION 6. AUTHORITY TO COLLECT DELINQUENT TAXES. (1) (A) THE DEPARTMENT SHALL**  
20 **COLLECT TAXES THAT ARE DELINQUENT AS DETERMINED UNDER [SECTIONS 1 THROUGH 11].**

21 **(B) IF A TAX IMPOSED BY [SECTIONS 1 THROUGH 11] OR ANY PORTION OF THE TAX IS NOT PAID WHEN DUE, THE**  
22 **DEPARTMENT MAY ISSUE A WARRANT FOR DISTRRAINT AS PROVIDED IN TITLE 15, CHAPTER 1, PART 7.**

23 **(2) IN ADDITION TO ANY OTHER REMEDY, IN ORDER TO COLLECT DELINQUENT TAXES AFTER THE TIME FOR APPEAL**  
24 **HAS EXPIRED, THE DEPARTMENT MAY DIRECT THE OFFSET OF TAX REFUNDS OR OTHER FUNDS THAT ARE DUE TO THE**  
25 **TAXPAYER FROM THE STATE, EXCEPT WAGES SUBJECT TO THE PROVISIONS OF 25-13-614 AND RETIREMENT BENEFITS.**

26 **(3) AS PROVIDED IN 15-1-705, THE TAXPAYER HAS THE RIGHT TO A REVIEW ON THE TAX LIABILITY PRIOR TO ANY**  
27 **OFFSET BY THE DEPARTMENT.**

28 **(4) THE DEPARTMENT MAY FILE A CLAIM FOR STATE FUNDS ON BEHALF OF THE TAXPAYER IF A CLAIM IS REQUIRED**  
29 **BEFORE FUNDS ARE AVAILABLE FOR OFFSET.**

1 NEW SECTION. SECTION 7. INTEREST ON DEFICIENCY -- PENALTY. (1) INTEREST ACCRUES ON UNPAID OR  
2 DELINQUENT TAXES AS PROVIDED IN 15-1-216. THE INTEREST MUST BE COMPUTED FROM THE DATE ON WHICH THE  
3 STATEMENT AND TAX WERE ORIGINALLY DUE.

4 (2) IF THE PAYMENT OF A TAX DEFICIENCY IS NOT MADE WITHIN 60 DAYS AFTER IT IS DUE AND PAYABLE AND IF  
5 THE DEFICIENCY IS DUE TO NEGLIGENCE ON THE PART OF THE TAXPAYER BUT WITHOUT FRAUD, THE PENALTY IMPOSED  
6 BY 15-1-216(1)(C) MUST BE ADDED TO THE AMOUNT OF THE DEFICIENCY.

7  
8 NEW SECTION. SECTION 8. LIMITATIONS. (1) EXCEPT IN THE CASE OF A PERSON WHO PURPOSELY OR  
9 KNOWINGLY, AS THOSE TERMS ARE DEFINED IN 45-2-101, FILES A FALSE OR FRAUDULENT STATEMENT VIOLATING THE  
10 PROVISIONS OF [SECTIONS 1 THROUGH 11], A DEFICIENCY MAY NOT BE ASSESSED OR COLLECTED WITH RESPECT TO A  
11 TAX PERIOD FOR WHICH A STATEMENT IS FILED UNLESS THE NOTICE OF ADDITIONAL TAX PROPOSED TO BE ASSESSED IS  
12 MAILED TO OR PERSONALLY SERVED UPON THE TAXPAYER WITHIN 5 YEARS FROM THE DATE ON WHICH THE STATEMENT  
13 WAS FILED. FOR PURPOSES OF THIS SECTION, A STATEMENT FILED BEFORE THE LAST DAY PRESCRIBED FOR FILING IS  
14 CONSIDERED TO BE FILED ON THE LAST DAY.

15 (2) IF, BEFORE THE EXPIRATION OF THE 5-YEAR PERIOD PRESCRIBED IN SUBSECTION (1) FOR ASSESSMENT OF  
16 THE TAX, THE TAXPAYER CONSENTS IN WRITING TO AN ASSESSMENT AFTER EXPIRATION OF THE 5-YEAR PERIOD, A  
17 DEFICIENCY MAY BE ASSESSED AT ANY TIME PRIOR TO THE EXPIRATION OF THE PERIOD CONSENTED TO.

18  
19 NEW SECTION. SECTION 9. CREDIT OR REFUND FOR OVERPAYMENT -- REFUND FROM COUNTY -- INTEREST  
20 ON OVERPAYMENT. (1) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF TAX, PENALTY, OR INTEREST DUE FOR ANY  
21 SEMIANNUAL PERIOD IS LESS THAN THE AMOUNT PAID, THE AMOUNT OF THE OVERPAYMENT MUST BE CREDITED AGAINST  
22 ANY TAX, PENALTY, OR INTEREST THEN DUE FROM THE TAXPAYER AND THE BALANCE REFUNDED TO THE TAXPAYER OR ITS  
23 SUCCESSOR THROUGH REORGANIZATION, MERGER, OR CONSOLIDATION OR TO ITS SHAREHOLDERS UPON DISSOLUTION.

24 (2) (A) THE AMOUNT OF AN OVERPAYMENT CREDITED AGAINST ANY TAX, PENALTY, OR INTEREST DUE FOR ANY  
25 TAX PERIOD OR ANY REFUND OR PORTION OF A REFUND, WHICH HAS NOT BEEN DISTRIBUTED PURSUANT TO [SECTION 10],  
26 MUST BE WITHHELD FROM THE CURRENT DISTRIBUTION MADE PURSUANT TO [SECTION 10].

27 (B) IF THE AMOUNT OF THE REFUND REDUCES THE AMOUNT OF TAX PREVIOUSLY DISTRIBUTED PURSUANT TO  
28 [SECTION 10] AND IF THE CURRENT DISTRIBUTION, IF ANY, IS INSUFFICIENT TO OFFSET THE REFUND, THEN THE  
29 DEPARTMENT SHALL DEMAND THE AMOUNT OF THE REFUND FROM THE COUNTY TO WHICH THE TAX WAS ORIGINALLY  
30 DISTRIBUTED. THE COUNTY TREASURER SHALL REMIT THE AMOUNT DEMANDED WITHIN 30 DAYS OF THE RECEIPT OF

1 NOTICE FROM THE DEPARTMENT.

2 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), INTEREST MUST BE ALLOWED ON OVERPAYMENTS AT THE SAME  
3 RATE AS IS CHARGED ON UNPAID TAXES PROVIDED IN 15-1-216 BEGINNING FROM THE DUE DATE OF THE STATEMENT OR  
4 FROM THE DATE OF OVERPAYMENT, WHICHEVER DATE IS LATER, TO THE DATE ON WHICH THE DEPARTMENT APPROVES  
5 REFUNDING OR CREDITING OF THE OVERPAYMENT.

6 (4) (A) INTEREST MAY NOT ACCRUE DURING ANY PERIOD IN WHICH THE PROCESSING OF A CLAIM FOR REFUND  
7 IS DELAYED MORE THAN 30 DAYS BY REASON OF FAILURE OF THE TAXPAYER TO FURNISH INFORMATION REQUESTED BY  
8 THE DEPARTMENT FOR THE PURPOSE OF VERIFYING THE AMOUNT OF THE OVERPAYMENT.

9 (B) INTEREST IS NOT ALLOWED:

10 (i) IF THE OVERPAYMENT IS REFUNDED WITHIN 6 MONTHS FROM THE DATE ON WHICH THE STATEMENT IS DUE OR  
11 FROM THE DATE ON WHICH THE STATEMENT IS FILED, WHICHEVER IS LATER; OR

12 (ii) IF THE AMOUNT OF INTEREST IS LESS THAN \$1.

13  
14 NEW SECTION. SECTION 10. DISTRIBUTION OF TAXES. (1) (A) FOR EACH SEMIANNUAL PERIOD, THE  
15 DEPARTMENT SHALL DETERMINE THE AMOUNT OF TAX, LATE PAYMENT INTEREST, AND PENALTIES COLLECTED UNDER  
16 [SECTIONS 1 THROUGH 11] FROM BENTONITE MINES THAT PRODUCED BENTONITE BEFORE JANUARY 1, 2005. THE TAX  
17 IS DISTRIBUTED AS PROVIDED IN SUBSECTIONS (2) THROUGH (12).

18 (B) FOR EACH SEMIANNUAL PERIOD, THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF TAX, LATE PAYMENT  
19 INTEREST, AND PENALTIES COLLECTED UNDER [SECTIONS 1 THROUGH 11] FROM BENTONITE MINES THAT FIRST BEGAN  
20 PRODUCING BENTONITE AFTER DECEMBER 31, 2004. THE TAX IS DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

21 (2) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2004, AND BEFORE JANUARY 1,  
22 2006, THE TAX DETERMINED UNDER SUBSECTION (1)(A) IS ALLOCATED ACCORDING TO THE FOLLOWING SCHEDULE:

23 (A) 2.33% TO THE STATE SPECIAL REVENUE FUND TO BE APPROPRIATED TO THE MONTANA UNIVERSITY SYSTEM  
24 FOR THE PURPOSES OF THE STATE TAX LEVY AS PROVIDED IN 20-25-423;

25 (B) 18.14% TO THE STATE GENERAL FUND TO BE APPROPRIATED FOR THE PURPOSES OF THE TAX LEVIES AS  
26 PROVIDED IN 20-9-331, 20-9-333, AND 20-9-360;

27 (C) 3.35% TO CARBON COUNTY TO BE DISTRIBUTED IN PROPORTION TO CURRENT FISCAL YEAR MILL LEVIES IN  
28 THE TAXING JURISDICTIONS IN WHICH PRODUCTION OCCURS, EXCEPT A DISTRIBUTION MAY NOT BE MADE FOR COUNTY AND  
29 STATE LEVIES UNDER 20-9-331, 20-9-333, 20-9-360, AND 20-25-423; AND

30 (D) 76.18% TO CARTER COUNTY TO BE DISTRIBUTED IN PROPORTION TO CURRENT FISCAL YEAR MILL LEVIES



1 IN THE TAXING JURISDICTIONS IN WHICH PRODUCTION OCCURS, EXCEPT A DISTRIBUTION MAY NOT BE MADE FOR COUNTY  
2 AND STATE LEVIES UNDER 20-9-331, 20-9-333, 20-9-360, AND 20-25-423.

3 (3) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2005, AND BEFORE JANUARY 1,  
4 2007, 90% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
5 AND 10% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

6 (4) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2006, AND BEFORE JANUARY 1,  
7 2008, 80% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
8 AND 20% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

9 (5) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1,  
10 2009, 70% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
11 AND 30% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

12 (6) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2008, AND BEFORE JANUARY 1,  
13 2010, 60% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
14 AND 40% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

15 (7) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2009, AND BEFORE JANUARY 1,  
16 2011, 50% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
17 AND 50% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

18 (8) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2010, AND BEFORE JANUARY 1,  
19 2012, 40% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
20 AND 60% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

21 (9) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2011, AND BEFORE JANUARY 1,  
22 2013, 30% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
23 AND 70% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

24 (10) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2012, AND BEFORE JANUARY 1,  
25 2014, 20% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
26 AND 80% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

27 (11) FOR THE PRODUCTION OF BENTONITE OCCURRING AFTER DECEMBER 31, 2013, AND BEFORE JANUARY 1,  
28 2015, 10% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
29 AND 90% MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

30 (12) FOR THE PRODUCTION OF BENTONITE OCCURRING IN TAX YEARS BEGINNING AFTER DECEMBER 31, 2014,

1 100% OF THE TAX DETERMINED UNDER SUBSECTION (1)(A) MUST BE DISTRIBUTED AS PROVIDED IN SUBSECTION (13).

2 (13) FOR THE PRODUCTION OF BENTONITE, 100% OF THE TAX DETERMINED UNDER SUBSECTION (1)(B) AND THE  
3 DISTRIBUTION PERCENTAGES DETERMINED UNDER SUBSECTIONS (3) THROUGH (12) ARE ALLOCATED ACCORDING TO THE  
4 FOLLOWING SCHEDULE:

5 (A) 1.30% TO THE STATE SPECIAL REVENUE FUND TO BE APPROPRIATED TO THE MONTANA UNIVERSITY SYSTEM  
6 FOR THE PURPOSES OF THE STATE TAX LEVY AS PROVIDED IN 20-25-423;

7 (B) 20.75% TO THE STATE GENERAL FUND TO BE APPROPRIATED FOR THE PURPOSES OF THE TAX LEVIES AS  
8 PROVIDED IN 20-9-331, 20-9-333, AND 20-9-360;

9 (C) 77.95% TO THE COUNTY IN WHICH PRODUCTION OCCURRED TO BE DISTRIBUTED IN PROPORTION TO  
10 CURRENT FISCAL YEAR MILL LEVIES IN THE TAXING JURISDICTIONS IN WHICH PRODUCTION OCCURS, EXCEPT A  
11 DISTRIBUTION MAY NOT BE MADE FOR COUNTY AND STATE LEVIES UNDER 15-10-107, 20-9-331, 20-9-333, 20-9-360,  
12 AND 20-25-423.

13 (14) THE DEPARTMENT SHALL REMIT THE AMOUNTS TO BE DISTRIBUTED IN THIS SECTION TO THE COUNTY  
14 TREASURER BY THE FOLLOWING DATES:

15 (A) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DEPARTMENT SHALL REMIT THE COUNTY'S SHARE OF  
16 BENTONITE PRODUCTION TAX PAYMENTS RECEIVED FOR THE SEMIANNUAL PERIOD ENDING JUNE 30 OF THE CURRENT YEAR  
17 TO THE COUNTY TREASURER.

18 (B) ON OR BEFORE APRIL 1 OF EACH YEAR, THE DEPARTMENT SHALL REMIT THE COUNTY'S SHARE OF BENTONITE  
19 PRODUCTION TAX PAYMENTS RECEIVED TO THE COUNTY TREASURER FOR THE SEMIANNUAL PERIOD ENDING DECEMBER  
20 31 OF THE PREVIOUS YEAR.

21 (15) (A) THE DEPARTMENT SHALL ALSO PROVIDE TO EACH COUNTY THE AMOUNT OF GROSS YIELD OF VALUE FROM  
22 BENTONITE, INCLUDING ROYALTIES, FOR THE PREVIOUS CALENDAR YEAR. THIRTY-THREE AND ONE-THIRD PERCENT OF  
23 THE GROSS YIELD OF VALUE MUST BE TREATED AS TAXABLE VALUE FOR COUNTY CLASSIFICATION PURPOSES UNDER  
24 7-1-2111 AND FOR DETERMINING SCHOOL DISTRICT DEBT LIMITS UNDER 20-9-406.

25 (B) THE PERCENTAGE AMOUNT OF THE GROSS YIELD OF VALUE DETERMINED UNDER SUBSECTION (15)(A) MUST  
26 BE TREATED AS ASSESSED VALUE UNDER 15-8-111 FOR THE PURPOSES OF LOCAL GOVERNMENT DEBT LIMITS AND OTHER  
27 BONDING PROVISIONS AS PROVIDED BY LAW.

28  
29 NEW SECTION. SECTION 11. ADMINISTRATION -- RULES. THE DEPARTMENT SHALL:

30 (1) ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 1 THROUGH 11];

(2) CAUSE TO BE PREPARED AND DISTRIBUTED FORMS AND INFORMATION THAT MAY BE NECESSARY TO ADMINISTER THE PROVISIONS OF [SECTIONS 1 THROUGH 11]; AND

(3) ADOPT RULES THAT MAY BE NECESSARY OR APPROPRIATE TO ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 1 THROUGH 11].

**Section 12.** Section 15-6-131, MCA, is amended to read:

**"15-6-131. Class one property -- description -- taxable percentage.** (1) Class one property includes the annual net proceeds of all mines and mining claims except bentonite, coal, and metal mines.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 or, for industrial garnets and associated byproducts, as provided in 15-23-518."

**Section 13.** Section 15-6-208, MCA, is amended to read:

**"15-6-208. Mineral exemptions.** (1) One-half of the contract sales price of coal sold by a coal producer who extracts less than 50,000 tons of coal in a calendar year is exempt from taxation.

(2) Metal mines producing less than 20,000 tons of ore in a taxable year are exempt from property taxation on one-half of the merchantable value.

(3) The first 1,000 tons of travertine and building stone extracted from a mine in a tax year are exempt from property taxation.

(4) Bentonite extracted from a mine is exempt from property taxation."

~~Section 6.~~ Section 15-23-103, MCA, is amended to read:

~~"15-23-103. Due date of reports and returns -- extensions.~~ (1) Except as provided in subsection (2), each report or return statement described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or 15-23-517, 15-23-701, or [section 1] must be delivered to the department on or before March 31 each year.

~~(2) Each report or return statement for a natural gas or oil pipeline described in 15-23-301 must be delivered to the department on or before April 15 each year.~~

~~(3) Each report or statement described in 15-23-204, 15-23-212, 15-23-515, 15-23-516, or 15-23-518 must be delivered to the department before April 15 each year.~~

1       ~~———— (4) The department may for good cause extend the time for filing a return or report or statement for not~~  
2       ~~more than 30 days."~~

3  
4       ~~———— **Section 7.** Section 15-23-104, MCA, is amended to read:~~

5       ~~———— **"15-23-104. Failure to file -- estimate by department -- penalty.** (1) If any person fails to file a report~~  
6       ~~or return statement within the time established in 15-23-103 or by a later date approved by the department, the~~  
7       ~~department shall estimate the value of the property that should have been reported on the basis of the best~~  
8       ~~available information. In estimating the value of the net proceeds of mines or the gross yield and gross yield of~~  
9       ~~value of bentonite under [sections 1 through 3], the department shall proceed under 15-23-506, and in In~~  
10       ~~estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In~~  
11       ~~estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the~~  
12       ~~department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena~~  
13       ~~a person or the person's agent as specified in 15-1-302. An assessment pursuant to parts 5, 7, and 8 of this~~  
14       ~~chapter based on estimated value or imputed value or an assessment pursuant to [sections 1 through 3] based~~  
15       ~~on gross yield and gross yield of value of bentonite is subject to review under 15-1-211. For each month or part~~  
16       ~~of a month that a report is delinquent, the department shall impose and collect a \$25 penalty, with the total not~~  
17       ~~to exceed \$200, and shall deposit the penalty to the credit of the general fund. The department shall assess a~~  
18       ~~penalty of 1% of the tax due for each month or part of a month that the report is delinquent. The department shall~~  
19       ~~notify the county treasurer of each affected county of the amount of the penalty, and the treasurer shall collect~~  
20       ~~the penalty in the same manner as the taxes to which the penalty applies.~~

21       ~~———— (2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the~~  
22       ~~tax due for each month or part of a month that the report is delinquent."~~

23  
24       ~~———— **Section 8.** Section 15-23-115, MCA, is amended to read:~~

25       ~~———— **"15-23-115. Interest.** If the department determines that a taxpayer has incorrectly reported a value~~  
26       ~~under 15-23-502, 15-23-515, 15-23-516, 15-23-517, 15-23-518, 15-23-701, or 15-23-802 or has incorrectly~~  
27       ~~reported information on the statement required by [section 1] and if an additional tax is due, there must be added~~  
28       ~~to the tax until paid in full interest at the rate of 1% a month or fraction of a month from the date the original tax~~  
29       ~~was due and payable. A taxpayer subject to imposition of interest pursuant to this section is not subject to the~~  
30       ~~penalty and interest provisions contained in 15-16-102."~~

**SECTION 14.** SECTION 15-23-101, MCA, IS AMENDED TO READ:

**"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

(1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including but not limited to telegraph, telephone, microwave, and electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(3) all property of scheduled airlines;

(4) the net proceeds of mines, except bentonite mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."

**Section 15.** Section 15-23-501, MCA, is amended to read:

**"15-23-501. Taxation of mines.** (1) All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof of the mines and mining claims from the United States, ~~shall be~~ are taxed as all other land is taxed. All machinery, equipment, and other personal property used in mining ~~and all property and surface improvements upon or appurtenant to mines and mining claims which that~~ have a value separate and independent of ~~such the~~ mines or mining claims and, except as provided in subsection (2), the annual net proceeds of all mines and mining claims ~~shall be~~ are taxed as other personal property. Surface improvements upon or appurtenant to mines and mining claims that have a value separate and independent of the mines or mining claims are taxed as other improvements.

(2) Bentonite produced from mines and mining claims is not subject to net proceeds taxation and is taxed as provided in [sections 1 through 3 11]."

1  
2       **Section 16.** Section 15-23-502, MCA, is amended to read:

3       **"15-23-502. Net proceeds tax -- statement of yield.** Every person engaged in mining, extracting, or  
4 producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever  
5 precious stones or gems, vermiculite, ~~bentonite~~, or other valuable mineral, except bentonite, coal, and metals,  
6 must on or before March 31 each year make out a statement of the gross yield and value of the above-named  
7 metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the  
8 year in which the statement is made. The statement must be in the form prescribed by the department of  
9 revenue and must be verified by the oath of the person completing the statement or the manager,  
10 superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be  
11 delivered to the department on or before March 31. Except as provided in 15-23-515 through 15-23-518, the  
12 statement must show the following:

13           (1) the name and address of the owner or lessee or operator of the mine, together with the names and  
14 addresses of any and all persons owning or claiming any royalty interest in the mineral product of the mine or  
15 the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each  
16 of the persons during the period covered by the statement;

17           (2) the description and location of the mine;

18           (3) the number of tons of ore or other mineral products or deposits extracted, produced, and treated or  
19 sold from the mine during the period covered by the statement;

20           (4) the amount and character of the ores, mineral products, or deposits and the yield of the ores, mineral  
21 products, or deposits from the mine in constituents of commercial value; that is, commercially valuable  
22 constituents of the ores, mineral products, or deposits, measured by standard units of measurement, yielded  
23 to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement;

24           (5) the gross yield or value in dollars and cents;

25           (6) cost of extracting from the mine;

26           (7) cost of transporting to place of reduction or sale;

27           (8) cost of reduction or sale;

28           (9) cost of marketing the product and conversion of the product into money;

29           (10) cost of construction, repairs, and betterments of mines and cost of repairs and replacements of  
30 reduction works;

- 1 (11) the assessed valuation of reduction works for the calendar year for which the return is made;
- 2 (12) cost of fire insurance, workers' compensation insurance, boiler and machinery insurance, and public
- 3 liability insurance paid for the mine, reduction works, or beneficiation process;
- 4 (13) cost of welfare and retirement fund payments provided for in wage contracts;
- 5 (14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws
- 6 or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals,
- 7 and the costs incurred in Montana for engineering and geological services for existing mining operations but not
- 8 including any services beyond the stage of reduction and beneficiation of the minerals; and
- 9 (15) cost of mine reclamation."

10

11 **NEW SECTION. SECTION 17. TRANSITION.** (1) FOR PROPERTY TAX PURPOSES, MILL LEVIES IMPOSED IN 2004

12 ON BENTONITE PRODUCTION OCCURRING IN TAX YEAR 2003 FOR FISCAL YEAR 2005 ARE GENERALLY PAYABLE IN

13 NOVEMBER 2004 AND MAY 2005.

14 (2) NOTWITHSTANDING ANY OTHER PROVISION OF [THIS ACT], AN OWNER OR OPERATOR OF A BENTONITE MINE

15 SHALL FILE THE STATEMENT REQUIRED BY 15-23-502 AT THE TIME SPECIFIED IN 15-23-103 FOR TAX YEAR 2004.

16

17 **NEW SECTION. Section 18. Codification instruction.** [Sections 1 through 3 11] are intended to be

18 codified as an integral part of Title 15, ~~chapter 23~~, and the provisions of Title 15, ~~chapter 23~~, apply to [sections

19 1 through 3 11].

20

21 **NEW SECTION. SECTION 19. SAVING CLAUSE.** [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT

22 MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS

23 ACT].

24

25 **NEW SECTION. Section 20. Effective date.** [This act] is effective on passage and approval.

26

27 **NEW SECTION. Section 21. Retroactive applicability.** (1) ~~[This act]~~ SECTIONS 1 THROUGH 11 ~~applies~~

28 APPLY retroactively, within the meaning of 1-2-109, to the production of bentonite beginning after December 31,

29 2004.

30 (2) [SECTIONS 12 THROUGH 16] APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO BENTONITE

1 PRODUCTION OCCURRING AFTER DECEMBER 31, 2003.

2 - END -